

These are some of the considerations which will be taken up at the subcommittee hearing.

I thank the Chair and I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

#### NOMINATION OF DENNY CHIN TO BE UNITED STATES CIRCUIT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The legislative clerk read the nomination of Denny Chin, of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. There is 60 minutes, equally divided, on this nomination.

The Senator from Vermont.

Mr. LEAHY. Madam President, yesterday the Senate was forced to devote the entire day to so-called "debate" on two nominations that Republican objections had stalled for months. The good news is, the majority leader's filing of cloture motions to end the filibusters on these nominations succeeded. The votes took place. Each was confirmed with more than 70 votes, a bipartisan majority of the Senate. The debate amounted to statements by Senators in support of the nominations. Let me emphasize that. The only people who spoke, spoke in support of the nominations. During the entire day, not a single Republican Senator came to the floor to oppose the nominations, nor did a single Senator come to the floor to explain why there have been months of delay that left a key office of the Justice Department without a head for the last year. None came to explain why their objections left a longstanding vacancy in the U.S. Court of Appeals for the Third Circuit.

Instead, there was silence. There is no explanation for what continues to be a practice by Senate Republicans of secret holds and a Senate Republican leadership strategy of delay and obstruction of President Obama's nominations. That is wrong.

Throughout the week, a number of Senators have come before the Senate to discuss this untenable situation. They have asked for consent to proceed to scores of nominations that are totally noncontroversial. Yet Republicans objected because, after all, these nominees had committed the horrible sin of being nominated by a Democratic President. It makes no sense. I am in my 36th year in the Senate. I have never seen anybody treat any President, Republican or Democratic, in this way.

Pursuant to our Senate rules which were enacted after bipartisan efforts, those Republican Senators who are objecting have an obligation to come forward and justify those objections. I am going to be interested to see which Senators are objecting to proceeding on 18 judicial nominees. Eighteen nominees who were reported unanimously—every Democrat, every Republican in support of them from the Judiciary Committee—and then they are held by these secret holds. I will be interested in knowing what basis there is for not proceeding on those 18 nominees. In fact, I would like to know why we can't proceed to the 11 Justice Department nominees who were reported without objection—U.S. attorneys, U.S. marshals, and Directors of important institutes and bureaus within the Justice Department. Most of these people are involved with critical law enforcement matters. These stalled nominations extend back into last year, even though they had unanimous support from the committee, Republicans and Democrats alike. Even though most of them are in key law enforcement positions, they have been stopped, they have been held up, they have been stalled. This is wrong, and it should end.

Today, the Senate has another opportunity to make progress by completing action on the long-stalled nomination of Judge Denny Chin of New York to the U.S. Court of Appeals for the Second Circuit, which is the circuit of the distinguished Presiding Officer and of this Senator. The vacancy he has been nominated to fill, which has been delayed by some anonymous Republican objection, has been classified as a judicial emergency by the nonpartisan Administrative Office of the U.S. Courts. It is not unusual. There are 40 other judicial emergency vacancies and judges being held up. It is one of the four current vacancies in the Second Circuit's panel of 13 judges. All are judicial emergencies. Almost one-quarter of the court is being held vacant. That is wrong.

It reminds me of the years during the Clinton administration when similar Republican practices led to Chief Judge Winter, himself a Republican, having to declare the entire circuit an emergency in order to continue to operate with panels containing only a single Second Circuit judge. That is wrong. During that era, we had 61 pocket filibusters of a Democratic President's judges. That is wrong.

Yesterday, Republicans insisted on 3 hours of "debate" before a vote on Judge Vanaskie and another 3 hours of "debate" for a vote on Professor Schroeder, but none of them came down to debate. Then they were both confirmed by overwhelming margins. We should be thankful that today they have insisted on only 1 hour before this long overdue vote. I will be interested to see whether a single Republican Senator comes to speak in opposition of Judge Chin's nomination or to ex-

plain why they have delayed this vote for 19 weeks.

The Judiciary Committee unanimously voted to report Judge Chin's nomination last December—all Republicans and all Democrats. None of the Republican Senators serving on the committee opposed it—not Senators SESSIONS, HATCH, GRASSLEY, KYL, GRAHAM, CORNYN, or Senator COBURN. Not one. He is an outstanding district court judge. He has the strong support of both of his State's Senators and a number of conservative leaders. Yet his nomination has been stuck on the calendar since December. He has been waiting 133 days for the Senate to act. Contrast this with the practice Democrats followed during the first 2 years of the Bush administration when we proceeded to vote on his circuit court nominations, on average, within 7 days of their being reported by the Judiciary Committee. Now we wait 133 days and more.

This dramatic departure from the Senate's traditional practice of prompt and routine consideration on non-controversial nominations has led to a backlog of nominations and a historically low rate of judicial confirmations, and it damages the integrity of our courts. Our Federal system of judges has been the envy of most other countries because we keep them out of politics. Here we are sinking them into politics.

In fact, by this date in President Bush's Presidency, the Senate had confirmed 45 Federal circuit and district court judges. As of today, only 19 Federal circuit and district court confirmations have been allowed by the Republicans. This is despite the fact that President Obama began sending judicial nominations to the Senate 2 months earlier than President Bush did, so the Senate is way behind the pace we set during the Bush administration.

In the second half of 2001 and through 2002 the Senate confirmed 100 of President Bush's judicial nominees. Given Republican delay and obstruction this Senate will not likely achieve half that. Last year the Senate was allowed to confirm only 12 Federal circuit and district court judges all year. That was the lowest total in more than 50 years. Meanwhile, judicial vacancies have skyrocketed to more than 100.

Judge Chin is a well-respected jurist who is widely celebrated for one of his most newsworthy decisions in which he sentenced Ponzi scheme operator Bernard Madoff to 150 years in prison. He previously served for 4 years as a Federal prosecutor, and he spent a decade as a lawyer in private practice. You would think they would be saying: Why don't we move forward with the man who sentenced Bernie Madoff? It is almost as if we are punishing him for going after Bernie Madoff.

In fact, Judge Chin's impressive track record garnered the respect of former judge and former Attorney General Michael Mukasey who wrote to the